

REMARKS

Claims 7, 8 and 10-13 are now pending in this application. Claims 7-12 are rejected. Claim 9 is cancelled herein. Claims 1-6 are previously cancelled. New claim 13 is added. Claims 7, 8 and 10-12 are amended herein to clarify the invention, to express the invention in alternative wording, to broaden language as deemed appropriate and to address matters of form unrelated to substantive patentability issues.

Applicant herein traverses and respectfully requests reconsideration of the rejection of the claims cited in the above-referenced Office Action.

Claims 7-12 are rejected as obvious over Ponting et al. (US 2003/0126994) in view of Boyer et al. (US 5,324,917) under 35 U.S.C. §103(a). The applicant herein respectfully traverses this rejection. For a rejection under 35 U.S.C. §103(a) to be sustained, the differences between the features of the combined references and the present invention must be obvious to one skilled in the art.

The invention, as encompassed by the claims, is directed generally to the measurement of temperature derivatives at different selected locations in the deep fryer, wherein each measured temperature derivative of a different location is associated with a different threshold value. The heating power is automatically switched off if any one of the values of the temperature derivatives measured exceeds the relevant threshold value associated with the particular location associated with

the particular temperature derivative. A particularly reliable and rapid response system for switching off power to a heating element is thereby provided.

Applicant respectfully submits that the cited references, alone or in combination, fail to suggest this claimed approach, which utilizes temperature derivatives at different locations being related to corresponding different relevant threshold values for the different locations. Moreover, the references are also deficient in other respects, as discussed below.

Applicant notes that while it is averred by the Examiner that Ponting et al. “discloses an apparatus for deep frying that shows all the structure of the claimed invention” (see page 2 of the Office Action), such is not the case. For example, the claims require that “the heating element extends substantially horizontally within the vessel for direct contact with the oil.” In stark contrast, the heating element 16 of Ponting et al. is disposed below and outside of the vessel, and does not come into contact the cooking medium, e.g., oil (see Figs 2 and 3, and page 4, left col., lines 1-4).

The Boyer et al. is similarly deficient, failing to show the presence of any sensor within the vessel, as claimed. The sensor of Boyer et al is disposed on the underside of the vitro-ceramic cooking surface over which the vessel is placed for heating (see Figs. 1-3 wherein relative placement of the sensor 1, receptacle/vessel 11, and vitro-ceramic cooking surface are depicted).

Based upon the foregoing, it is clear that the combination of references fails to teach or suggest all claimed elements as properly required for establishing a *prima facie* case of obviousness. Thus, it is respectfully submitted that the rejected claims are not obvious in view of the cited references for the reasons stated above. Reconsideration of the rejections of claims 7, 8 and 10-12 and their allowance are respectfully requested.

Dependent claim 13 is added and is submitted as patentable over the cited art of record based on the subject matter cited therein in addition to the subject matter of base claim 8.

No fee is believed due. If there is any fee due the USPTO is hereby authorized to charge such fee to Deposit Account No. 10-1250.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,
JORDAN AND HAMBURG LLP

By C. Bruce Hamburg by:
C. Bruce Hamburg
Reg. No. 22,389
Attorney for Applicant
and,

By Lawrence I. Wechsler
Lawrence I. Wechsler
Reg. No. 36,049
Attorney for Applicant

Jordan and Hamburg LLP
122 East 42nd Street
New York, New York 10168
(212) 986-2340